

By: Ellis

S.B. No. 1834

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of the Harris County Improvement District
3 No. 8; providing authority to impose a tax and issue bonds.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 8.
6 Subtitle C, Title 4, Special District Local Laws Code, is amended by
7 adding Chapter 3845 to read as follows:

8 CHAPTER 3845. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 8

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 3845.001. DEFINITIONS. In this chapter:

11 (1) "Board" means the board of directors of the
12 district.

13 (2) "District" means the Harris County Improvement
14 District No. 8.

15 Sec. 3845.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 8. A
16 special district known as the "Harris County Improvement District
17 No. 8" is a governmental agency and political subdivision of this
18 state.

19 Sec. 3845.003. PURPOSE; DECLARATION OF INTENT. (a) The
20 creation of the district is essential to accomplish the purposes of
21 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
22 Texas Constitution, and other public purposes stated in this
23 chapter. By creating the district and in authorizing Harris
24 County, the City of Houston, and other political subdivisions to

1 contract with the district, the legislature has established a
2 program to accomplish the public purposes set out in Section 52-a,
3 Article III, Texas Constitution.

4 (b) The creation of the district is necessary to promote,
5 develop, encourage, and maintain employment, commerce,
6 transportation, housing, tourism, recreation, the arts,
7 entertainment, economic development, safety, and the public
8 welfare in the area of the district.

9 (c) This chapter and the creation of the district may not be
10 interpreted to relieve Harris County or the City of Houston from
11 providing the level of services provided as of September 1, 2005, to
12 the area in the district or to release the county or the city from
13 the obligations of each entity to provide services to that area.
14 The district is created to supplement and not to supplant the county
15 or city services provided in the area in the district.

16 Sec. 3845.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
17 The district is created to serve a public use and benefit.

18 (b) All land and other property included in the district
19 will benefit from the improvements and services to be provided by
20 the district under powers conferred by Sections 52 and 52-a,
21 Article III, and Section 59, Article XVI, Texas Constitution, and
22 other powers granted under this chapter.

23 (c) Each improvement project or service authorized by this
24 chapter is essential to carry out a public purpose.

25 (d) The creation of the district is in the public interest
26 and is essential to:

27 (1) further the public purposes of developing and

1 diversifying the economy of the state;

2 (2) eliminate unemployment and underemployment; and

3 (3) develop or expand transportation and commerce.

4 (e) The district will:

5 (1) promote the health, safety, and general welfare of
6 residents, employers, employees, visitors, and consumers in the
7 district, and of the public;

8 (2) provide needed funding for the district to
9 preserve, maintain, and enhance the economic health and vitality of
10 the area as a community and business center;

11 (3) promote the health, safety, welfare, and enjoyment
12 of the public by providing public art and pedestrian ways and by
13 landscaping and developing certain areas in the district, which are
14 necessary for the restoration, preservation, and enhancement of
15 scenic and aesthetic beauty;

16 (4) promote and benefit commercial development and
17 commercial areas in the district; and

18 (5) promote and develop public transportation and
19 pedestrian facilities and systems using new and alternative means
20 that are attractive, safe, and convenient, including securing
21 expanded and improved transportation and pedestrian facilities and
22 systems, to:

23 (A) address the problem of traffic congestion in
24 the district, the need to control traffic and improve pedestrian
25 safety, and the limited availability of money; and

26 (B) benefit the land and other property in the
27 district and the residents, employers, employees, visitors, and

1 consumers in the district and the public.

2 (f) Pedestrian ways along or across a street, whether at
3 grade or above or below the surface, and street lighting, street
4 landscaping, and street art objects are parts of and necessary
5 components of a street and are considered to be a street or road
6 improvement.

7 (g) The district will not act as the agent or
8 instrumentality of any private interest even though the district
9 will benefit many private interests as well as the public.

10 Sec. 3845.005. DISTRICT TERRITORY. (a) The district is
11 composed of the territory described by Section 2 of the Act enacting
12 this chapter, as that territory may have been modified under:

13 (1) Section 3845.105;

14 (2) Subchapter J, Chapter 49, Water Code; or

15 (3) other law.

16 (b) The boundaries and field notes of the district contained
17 in Section 2 of this Act form a closure. A mistake in the field
18 notes or in copying the field notes in the legislative process does
19 not in any way affect:

20 (1) the district's organization, existence, and
21 validity;

22 (2) the district's right to issue any type of bond,
23 including a refunding bond, for a purpose for which the district is
24 created or to pay the principal of and interest on the bond;

25 (3) the district's right to impose and collect an
26 assessment or tax; or

27 (4) the legality or operation of the district or the

1 board.

2 (c) A description of the district's boundaries shall be
3 filed with the Texas Commission on Environmental Quality. The
4 commission by order may correct a mistake in the description of the
5 district's boundaries.

6 Sec. 3845.006. TORT LIABILITY. The district is a
7 governmental unit under Chapter 101, Civil Practice and Remedies
8 Code, and the operations of the district are essential government
9 functions and are not proprietary functions for any purpose,
10 including the application of Chapter 101, Civil Practice and
11 Remedies Code.

12 Sec. 3845.007. ELIGIBILITY FOR REINVESTMENT ZONES. All or
13 any part of the area of the district is eligible to be included in a
14 tax increment reinvestment zone created by the City of Houston
15 under Chapter 311, Tax Code.

16 Sec. 3845.008. LIBERAL CONSTRUCTION OF CHAPTER. This
17 chapter shall be liberally construed in conformity with the
18 findings and purposes stated in this chapter.

19 [Sections 3845.009-3845.050 reserved for expansion]

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Sec. 3845.051. BOARD OF DIRECTORS; TERMS. (a) The
22 district is governed by a board of five directors who serve
23 staggered terms of four years with two or three directors' terms
24 expiring June 1 of each odd-numbered year.

25 (b) The board by resolution may increase or decrease the
26 number of directors on the board, but only if a majority of the
27 board finds that it is in the best interest of the district to do so.

1 The board may not:

2 (1) increase the number of directors to more than
3 nine; or

4 (2) decrease the number of directors to fewer than
5 five.

6 (c) Sections 49.053, 49.054, 49.056, 49.057, 49.058, and
7 49.060, Water Code, apply to the board.

8 (d) Subchapter D, Chapter 375, Local Government Code,
9 applies to the board to the extent that subchapter does not conflict
10 with this chapter.

11 Sec. 3845.052. APPOINTMENT OF DIRECTORS ON INCREASE IN
12 BOARD SIZE. If the board increases the number of directors under
13 Section 3845.051, the board shall appoint qualified persons to fill
14 the new director positions and shall provide for staggering the
15 terms of the directors serving in the new positions. On expiration
16 of the term of a director appointed under this section, a succeeding
17 director shall be appointed and qualified as provided by Subchapter
18 D, Chapter 375, Local Government Code.

19 Sec. 3845.053. INITIAL DIRECTORS. (a) The initial board
20 consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	=====
<u>2</u>	=====
<u>3</u>	=====
<u>4</u>	=====
<u>5</u>	=====

27 (b) Of the initial directors, the terms of directors

1 appointed for positions 1 through 3 expire June 1, 2009, and the
2 terms of directors appointed for positions 4 and 5 expire June 1,
3 2007.

4 (c) Section 3845.051 does not apply to this section.

5 (d) This section expires September 1, 2009.

6 [Sections 3845.054-3845.100 reserved for expansion]

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 3845.101. DISTRICT POWERS. The district has:

9 (1) all powers necessary to accomplish the purposes
10 for which the district was created;

11 (2) the rights, powers, privileges, authority, and
12 functions of a district created under Chapter 375, Local Government
13 Code;

14 (3) the powers, duties, and contracting authority
15 specified by Subchapters H and I, Chapter 49, Water Code;

16 (4) the powers given to a corporation under Section
17 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's
18 Texas Civil Statutes), including the power to own, operate,
19 acquire, construct, lease, improve, and maintain the projects
20 described by that section; and

21 (5) the powers of a housing finance corporation
22 created under Chapter 394, Local Government Code.

23 Sec. 3845.102. NONPROFIT CORPORATION. (a) The board by
24 resolution may authorize the creation of a nonprofit corporation to
25 assist and act for the district in implementing a project or
26 providing a service authorized by this chapter.

27 (b) The nonprofit corporation:

1 (1) has each power of and is considered for purposes of
2 this chapter to be a local government corporation created under
3 Chapter 431, Transportation Code; and

4 (2) may implement any project and provide any service
5 authorized by this chapter.

6 (c) The board shall appoint the board of directors of the
7 nonprofit corporation. The board of directors of the nonprofit
8 corporation shall serve in the same manner as, for the same term as,
9 and on the same conditions as the board of directors of a local
10 government corporation created under Chapter 431, Transportation
11 Code.

12 Sec. 3845.103. ELECTIONS. (a) District elections must be
13 held in the manner provided by Subchapter L, Chapter 375, Local
14 Government Code.

15 (b) The board may submit multiple purposes in a single
16 proposition at an election.

17 Sec. 3845.104. CONTRACT FOR LAW ENFORCEMENT AND SECURITY
18 SERVICES. The district may contract with:

19 (1) Harris County or the City of Houston for the county
20 or city to provide law enforcement and security services for a fee;
21 and

22 (2) a private entity for the private entity to provide
23 supplemental security services.

24 Sec. 3845.105. ANNEXATION OR EXCLUSION OF TERRITORY. The
25 district may annex or exclude land from the district in the manner
26 provided by Subchapter C, Chapter 375, Local Government Code.

27 Sec. 3845.106. NO EMINENT DOMAIN POWER. The district may

1 not exercise the power of eminent domain.

2 [Sections 3845.107-3845.150 reserved for expansion]

3 SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

4 Sec. 3845.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED.

5 (a) The district may acquire, lease as lessor or lessee, construct,
6 develop, own, operate, and maintain a public transit system to
7 serve the area within the boundaries of the district.

8 (b) Before the district may act under Subsection (a), a
9 petition must be filed with the district requesting the action with
10 regard to a public transit system. The petition must be signed by
11 owners of property representing a majority of either the total
12 assessed value or the area of the real property in the district that
13 abuts the right-of-way in which the public transit system is
14 proposed to be located. The determination of a majority is based on
15 the property owners along the entire right-of-way of the proposed
16 transit project and may not be calculated on a block-by-block
17 basis.

18 Sec. 3845.152. PARKING FACILITIES AUTHORIZED; OPERATION BY
19 PRIVATE ENTITY; TAX EXEMPTION. (a) The district may acquire, lease
20 as lessor or lessee, construct, develop, own, operate, and maintain
21 parking facilities, including:

22 (1) lots, garages, parking terminals, or other
23 structures or accommodations for the parking of motor vehicles; and

24 (2) equipment, entrances, exits, fencing, and other
25 accessories necessary for safety and convenience in the parking of
26 vehicles.

27 (b) A parking facility of the district must be either leased

1 to or operated on behalf of the district by a private entity or an
2 entity other than the district. The district's parking facilities
3 are a program authorized by the legislature under Section 52-a,
4 Article III, Texas Constitution, and accomplish a public purpose
5 under that section even if leased or operated by a private entity
6 for a term of years.

7 (c) The district's public parking facilities and any lease
8 to a private entity are exempt from the payment of ad valorem taxes
9 and state and local sales and use taxes.

10 Sec. 3845.153. RULES. The district may adopt rules
11 covering its public transit system or its public parking facilities
12 except that a rule relating to or affecting the use of the public
13 right-of-way or a requirement for off-street parking is subject to
14 all applicable municipal charter, code, or ordinance requirements.

15 Sec. 3845.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR
16 PARKING FACILITIES. (a) The district may use any of its resources,
17 including revenue, assessments, taxes, and grant or contract
18 proceeds, to pay the cost of acquiring and operating a public
19 transit system or public parking facilities.

20 (b) The district may set and impose fees, charges, or tolls
21 for the use of the public transit system or the public parking
22 facilities and may issue bonds or notes to finance the cost of these
23 facilities.

24 (c) Except as provided by Section 3845.151, if the district
25 pays for or finances the cost of acquiring or operating a public
26 transit system or public parking facilities with resources other
27 than assessments, a petition of property owners or a public hearing

1 is not required.

2 Sec. 3845.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING
3 UNIT. If the district's acquisition of property for a parking
4 facility that is leased to or operated by a private entity results
5 in the removal from a taxing unit's tax rolls of real property
6 otherwise subject to ad valorem taxation, the district shall pay to
7 the taxing unit in which the property is located, on or before
8 January 1 of each year, as a payment in lieu of taxes, an amount
9 equal to the ad valorem taxes that otherwise would have been imposed
10 for the preceding tax year on that real property by the taxing unit,
11 without including the value of any improvements constructed on the
12 property.

13 [Sections 3845.156-3845.200 reserved for expansion]

14 SUBCHAPTER E. FINANCIAL PROVISIONS

15 Sec. 3845.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM
16 TAXES, AND IMPACT FEES. The district may impose, assess, charge, or
17 collect an assessment, an ad valorem tax, an impact fee, or another
18 fee in accordance with Chapter 49, Water Code, for a purpose
19 specified by Chapter 375, Local Government Code, or as needed to
20 exercise a power or function or to accomplish a purpose or duty for
21 which the district was created.

22 Sec. 3845.202. MAINTENANCE TAX. (a) If authorized at an
23 election held in accordance with Section 3845.103, the district may
24 impose an annual ad valorem tax on taxable property in the district
25 to maintain, restore, replace, or operate the district and
26 improvements that the district constructs or acquires or the
27 district's facilities, works, or services.

1 (b) The board shall determine the tax rate.

2 Sec. 3845.203. ASSESSMENT IN PART OF DISTRICT. An
3 assessment may be imposed on only a part of the district if only
4 that part will benefit from the service or improvement.

5 Sec. 3845.204. PETITION REQUIRED FOR ASSESSMENT AND FOR
6 FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not impose
7 an assessment or finance a service or improvement project under
8 this chapter unless a written petition requesting the improvement
9 or service has been filed with the board.

10 (b) The petition must be signed by:

11 (1) the owners of a majority of the assessed value of
12 real property in the district or in the area of the district that
13 will be subject to the assessment as determined by the most recent
14 certified tax appraisal roll for Harris County; or

15 (2) at least 25 persons who own real property in the
16 district or the area of the district that will be subject to the
17 assessment, if more than 25 persons own real property in the
18 district or area that will be subject to the assessment as
19 determined by the most recent certified tax appraisal roll for
20 Harris County.

21 Sec. 3845.205. ASSESSMENTS CONSIDERED TAXES. For purposes
22 of a title insurance policy issued under Chapter 9, Insurance Code,
23 an assessment is a tax.

24 Sec. 3845.206. LIENS FOR ASSESSMENTS; SUITS TO RECOVER
25 ASSESSMENTS. (a) An assessment imposed on property under this
26 chapter is a personal obligation of the person who owns the property
27 on January 1 of the year for which the assessment is imposed. If the

1 person transfers title to the property, the person is not relieved
2 of the obligation.

3 (b) On January 1 of the year for which an assessment is
4 imposed on a property, a lien attaches to the property to secure the
5 payment of the assessment and any interest accrued on the
6 assessment. The lien has the same priority as a lien for district
7 taxes.

8 (c) Not later than the fourth anniversary of the date on
9 which a delinquent assessment became due, the district may file
10 suit to foreclose the lien or to enforce the obligation for the
11 assessment, or both, and for any interest accrued.

12 (d) In addition to recovering the amount of the assessment
13 and any accrued interest, the district may recover reasonable
14 costs, including attorney's fees, that the district incurs in
15 foreclosing the lien or enforcing the obligation. The costs may not
16 exceed an amount equal to 20 percent of the assessment and interest.

17 (e) If the district does not file a suit in connection with a
18 delinquent assessment on or before the last date on which the
19 district may file suit under Subsection (c), the assessment and any
20 interest accrued is considered paid.

21 Sec. 3845.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM
22 ASSESSMENT AND IMPACT FEES. The district may not impose an impact
23 fee or assessment on the property, including equipment or
24 facilities, of:

25 (1) an electric utility as defined by Section 31.002,
26 Utilities Code;

27 (2) a gas utility as defined by Section 101.003 or

1 121.001, Utilities Code;

2 (3) a telecommunications provider as defined by
3 Section 51.002, Utilities Code; or

4 (4) a cable operator as defined by 47 U.S.C. Section
5 522, as amended.

6 Sec. 3845.208. USE OF ELECTRICAL OR OPTICAL LINES. (a) The
7 district may impose an assessment to pay the cost of:

8 (1) burying or removing electrical power lines,
9 telephone lines, cable or fiber optic lines, or any other type of
10 electrical or optical line;

11 (2) removing poles and any elevated lines using the
12 poles; and

13 (3) reconnecting the lines described by Subdivision
14 (2) to the buildings or other improvements to which the lines were
15 connected.

16 (b) The district may acquire, operate, or charge fees for
17 the use of the district conduits for:

18 (1) another person's:

19 (A) telecommunications network;

20 (B) fiber-optic cable; or

21 (C) electronic transmission line; or

22 (2) any other type of transmission line or supporting
23 facility.

24 (c) The district may not require a person to use a district
25 conduit.

26 Sec. 3845.209. DEBT. The district may issue bonds, notes,
27 or other debt obligations in accordance with Subchapters I and J,

1 Chapter 375, Local Government Code, for a purpose specified by that
2 chapter or as required to exercise a power or function or to
3 accomplish a purpose or duty for which the district was created.

4 [Sections 3845.210-3845.250 reserved for expansion]

5 SUBCHAPTER F. DISSOLUTION

6 Sec. 3845.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING
7 DEBT. (a) The district may be dissolved as provided by Subchapter
8 M, Chapter 375, Local Government Code, except that Section 375.264,
9 Local Government Code, does not apply to the district.

10 (b) If the district has debt when it is dissolved, the
11 district shall remain in existence solely for the purpose of
12 discharging its bonds or other obligations according to their
13 terms.

14 SECTION 2. BOUNDARIES. As of the effective date of this
15 Act, the Harris County Improvement District No. 8 includes all
16 territory contained in the following described area:

17 UNLESS otherwise specified, the boundaries of this district will
18 travel along the centerline of each street included, and each
19 intersection will be the intersection of the centerlines of the
20 streets mentioned.

21 POINT OF BEGINNING at the intersection of the Houston Downtown
22 Management District and Memorial Drive.

23 Then in a westerly direction along Memorial Drive to its
24 intersection with the old Southern Pacific railroad line that runs
25 parallel to Montrose Boulevard, between Montrose Boulevard and
26 Glenwood Cemetery, south across Buffalo Bayou.

27 Then in a southerly direction along the centerline of the old

1 Southern Pacific railroad trestle across Buffalo Bayou to the
2 centerline of Allen Parkway.

3 Then in an easterly direction along Allen Parkway to its
4 intersection with Sabine Street.

5 Then in a northerly direction along the southerly projection of the
6 center line of the right-of-way of Sabine Street, then in a
7 northerly direction along Sabine street to the intersection with
8 Memorial Drive at the POINT OF BEGINNING.

9 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
10 that:

11 (1) proper and legal notice of the intention to
12 introduce this Act, setting forth the general substance of this
13 Act, has been published as provided by law, and the notice and a
14 copy of this Act have been furnished to all persons, agencies,
15 officials, or entities to which they are required to be furnished by
16 the constitution and laws of this state, including the governor,
17 who has submitted the notice and Act to the Texas Commission on
18 Environmental Quality;

19 (2) the Texas Commission on Environmental Quality has
20 filed its recommendations relating to this Act with the governor,
21 lieutenant governor, and speaker of the house of representatives
22 within the required time;

23 (3) the general law relating to consent by political
24 subdivisions to the creation of districts with conservation,
25 reclamation, and road powers and the inclusion of land in those
26 districts has been complied with; and

27 (4) all requirements of the constitution and laws of

1 this state and the rules and procedures of the legislature with
2 respect to the notice, introduction, and passage of this Act have
3 been fulfilled and accomplished.

4 SECTION 4. EFFECTIVE DATE. This Act takes effect
5 immediately if it receives a vote of two-thirds of all the members
6 elected to each house, as provided by Section 39, Article III, Texas
7 Constitution. If this Act does not receive the vote necessary for
8 immediate effect, this Act takes effect September 1, 2005.